

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 95-18004

Priority: September 17, 2020

Maximum Diversion Rate: 0.06 CFS

This is to certify that

WHITNEY TRUST 814 PACIFIC AVE MANHATTAN BCH CA 90266-5850

has applied for a permit to appropriate water from:

Source : COEUR D ALENE LAKE

Tributary: SPOKANE RIVER

and a permit is APPROVED for development of water as follows:

**Beneficial Use****Period of Use****Rate of Diversion**

IRRIGATION

03/15 to 11/15

0.03 CFS

DOMESTIC

01/01 to 12/31

0.06 CFS

**Location of Point(s) of Diversion**

COEUR D ALENE LAKE NE¼ SW¼, Sec. 13, Twp 49N, Rge 04W, B.M. KOOTENAI County

**Place of Use: IRRIGATION**

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
49N	04W	13									1.2									1.2
49N	04W	13									L2									0.5

Total Acres: 1.7

**Place of Use: DOMESTIC**

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
49N	04W	13									X									
49N	04W	13									X									

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2025**.
2. Subject to all prior water rights.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
4. Domestic use is for 2 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
6. This right does not grant any right-of-way or easement across the land of another.

State of Idaho  
Department of Water Resources  
**Permit to Appropriate Water**  
No. 95-18004

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 28<sup>th</sup> day of October, 2020.



Adam Frederick

ADAM FREDERICK  
Water Rights Supervisor






State of Idaho  
Department of Water Resources

# Attachment to Permit to Appropriate Water

95-18004

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters






0 0.035 0.07 0.14 Miles



State of Idaho  
Department of Water Resources  
**Attachment to Permit to Appropriate Water**  
95-18004

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles







State of Idaho

## DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763  
Phone: (208)762-2800 • Fax: (208)769-2819 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

October 29, 2020

WHITNEY TRUST  
814 PACIFIC AVE  
MANHATTAN BCH CA 90266-5850

RE: Permit No. 95-18004

### Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov) for more information about these programs.

**Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).**

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



Adam Frederick  
Water Rights Supervisor

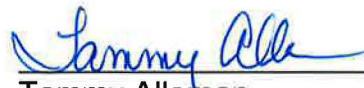
Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2020, I served a true and correct copy of Permit to Appropriate Water No. 95-18004 by U.S. Mail, postage prepaid, to the following:

WHITNEY TRUST (Current Owner)  
814 PACIFIC AVE  
MANHATTAN BCH CA 90266-5850

NORTHWEST GROUNDWATER CONSULTANTS LLC (Representative)  
2660 E THOMAS HILL DR  
COEUR D ALENE ID 83815-6335



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Tammy Alleman  
Administrative Assistant 1

## **EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

### **PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

### **EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

### **REQUEST FOR HEARING**

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

### **ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.



### **CERTIFICATE OF SERVICE**

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

### **FINAL ORDER**

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

### **APPEAL OF FINAL ORDER TO DISTRICT COURT**

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

## MEMORANDUM

**To:** Water Right Permit 95-18004

**From:** Luke Bates 

**Date:** 10/28/2020

**Re:** Application for a Permit to Appropriate Water within the State of Idaho.

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An application for permit for irrigation and domestic use in the name of Whitney Trust, was received by the department on 9/17/2020. During permit approval processing, it was identified that water right claim 95-16927 overlaps this permit's POU.

Condition X35 was not incorporated in the approval of this permit, as right 95-16927 is an adjudication claim that has not been finalized for partial decree at this time. There will likely be overlap for domestic use associated with the two homes, but the irrigation overlap between rights 95-18004 and 95-16927 is uncertain until 95-16927 is decreed, and irrigation occurring under permit 95-18004 is developed.

The afore mentioned overlap will be addressed in the future at time of field exam and licensing review for 95-18004.

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO )  
 ) ss.  
County of Kootenai )

Mary Moore, being first duly sworn upon oath, deposes and states:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press", a newspaper printed and published daily in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal notice of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 1 day of October, 2020, and ending on the 8 day of October, 2020, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice

Mary Moore  
On this 8 day of October in the year of 2020 before me, a Notary Public, personally appeared Mary Moore, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

## NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 84394

ROSS POINT WATER DISTRICT, PO BOX 70, POST FALLS, ID 83877-0070 has filed Application No. 84394 for changes to the following water rights within KOOTENAI County(s): Right No(s). 95-15533, 95-4088, 95-7258, 95-7698, 95-8477, 95-9009; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows:

This transfer proposes to add a well to the Ross Point Water District's existing groundwater rights in the NWSE of Section 30, Twp 51N, Rge 04W.

For additional information concerning the property location, contact Northern Region office at (208)762-2800. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 10/19/2020. The protestant must also send a copy of the protest to the applicant.  
GARY SPACKMAN, Director

The following application has been filed to amend Permit to Appropriate Water:

95-17905  
WOODLAND AT FROSTY PINE LLC  
3835 BECKON RIDGE RD  
COEUR D'ALENE, ID  
83814-0092  
Point of Diversion SWNW  
S17 T50N R03W  
KOOTENAI County  
Source GROUND WATER  
Point of Diversion SENW  
S17 T50N R03W  
KOOTENAI County  
Source GROUND WATER  
Point of Diversion NENW  
S17 T50N R03W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31 0.15 CFS  
Total Diversion: 0.15 CFS  
Date Filed: 11/13/2019  
Place Of Use: DOMESTIC  
T50N R03W S17 SENW

This amendment of permit proposes to add a third point of diversion to the applicants existing permit. The permitted diversion rate, nature of use, and place of use will remain the same.



Katrina George  
Notary Public for the State of Idaho  
Residing in Coeur d'Alene, Idaho

My Commission Expires 8/29/23

RECEIVED

OCT 16 2020

IDWR / NORTH

The following applications have been filed to appropriate the public waters of the State of Idaho:

**95-18002**

JUSTIN L BYBEE  
TRACEY M BYBEE  
11483 S KATEY CT  
SANDY, UT 84092-5467  
Point of Diversion NWSW  
S8 T53N R04W  
KOOTENAI County  
Source SPIRIT LAKE  
Tributary SPIRIT CREEK  
Use: DOMESTIC

01/01 to 12/31 0.06 CFS  
Use: STOCKWATER  
01/01 to 12/31 0.02 CFS  
Total Diversion: 0.08 CFS  
Date Filed: 09-10-2020  
Place Of Use:  
DOMESTIC, STOCKWATER  
T53N R04W S8  
L2(NWSW)

**95-18004**

WHITNEY TRUST  
814 PACIFIC AVE  
MANHATTAN BCH, CA  
90266-5850  
Point of Diversion NESW  
S13 T49N R04W  
KOOTENAI County  
Source COEUR D ALENE LAKE  
Tributary SPOKANE RIVER  
Use: DOMESTIC  
01/01 to 12/31 0.06 CFS  
Use: IRRIGATION  
03/15 to 11/15 0.03 CFS  
Total Diversion: 0.06 CFS  
Date Filed: 09-17-2020  
Place Of Use: DOMESTIC  
T49N R04W S13  
NESW, L2(NESW)  
Place Of Use: IRRIGATION  
T49N R04W S13  
L2(NESW), NESW  
Total Acres: 1.7

**95-18005**

PAUL AND SUSAN FINNEY  
REVOCABLE INTER VIVOS  
TRUST  
PAUL & SUSAN FINNEY  
TRUSTEES  
7041 S EDDYVILLE RD  
HARRISON, ID 83833  
Point of Diversion L5(NWSW)  
S4 T49N R03W  
KOOTENAI County  
Source COEUR D ALENE LAKE  
Tributary SPOKANE RIVER  
Use: IRRIGATION  
03/15 to 11/15  
Total Diversion: 0.05 CFS  
Date Filed: 09-17-2020  
Place Of Use: IRRIGATION  
T49N R03W S4  
L5(NWSW)  
Total Acres: 1.5

**95-18007**

THE SOLOMON FOUNDATION  
16965 PINE LN STE 200  
PARKER, CO 80134  
Point of Diversion L4(SENE)  
S36 T51N R05W  
KOOTENAI County  
Source GROUND WATER  
Use: IRRIGATION  
03/15 to 11/15  
Total Diversion: 0.12 CFS  
12 AF  
Date Filed: 09-17-2020  
Place Of Use: IRRIGATION  
T51N R05W S36  
L4(SENE)  
Total Acres: 4

**95-18009**

ALFRED SCARTH  
SUZAN D SCARTH  
302 S MADISON RD  
POST FALLS, ID 83854-9458  
Point of Diversion L4(NWSW)  
S8 T50N R05W  
KOOTENAI County  
Source GROUND WATER  
Use: DOMESTIC  
01/01 to 12/31  
Total Diversion: 0.06 CFS  
Date Filed: 09-24-2020  
Place Of Use: DOMESTIC  
T50N R05W S8  
L4(NWSW), L3(SWNW)

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 10/19/2020. The protestant must also send a copy of the protest to the applicant.  
GARY SPACKMAN, Director  
CDA LEGAL 4277  
AD#409562  
OCTOBER 1, 8, 2020